

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MOHAMED BARY,

Plaintiff,

-against-

DELTA AIR LINES, INC.,

Defendant.
-----X

Docket No. CV 02 5202

(Trager, J.)

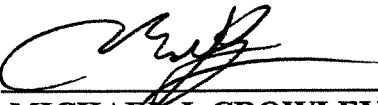
**NOTICE OF MOTION
FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE, that upon the annexed Affidavit of Michael J. Crowley, Esq. sworn to on the 5th day of September, 2008; the Affidavit of David Seiler, Esq., sworn to on the 5th day of September, 2008; the exhibits annexed thereto and the accompanying Memorandum of Law, the defendant, Delta Air Lines, Inc., will move this Court before the Honorable David G. Trager, at the United States District Court for the Eastern District of New York located at 225 Cadman Plaza East, Brooklyn, New York, on the 10th day of October 2008, at 10:00 a.m., for an Order pursuant to Fed. R. Civ. P. 56, granting summary judgment and dismissing

plaintiff's Amended Complaint, and for such other and further relief as deemed just and proper by this Court.

Dated: Garden City, New York
September 5, 2008

**GALLAGHER GOSSEEN
FALLER & CROWLEY**

By: 
MICHAEL J. CROWLEY
BRIAN P. MORRISSEY
A Partner with the Firm
Attorneys for the Defendant
DELTA AIR LINES, INC.
1010 Franklin Avenue
Garden City, NY 11530-2927
(516) 742-2500
Attorney I.D. No.: (MC/2821)
Attorney I.D. No.: (BPM/1699)

TO: Sanjay Chaubey, Esq.
LAW OFFICE OF SANJAY CHAUBEY
Attorney for Plaintiff
Empire State Building
350 Fifth Avenue, Ste. 5013
New York, NY 10118
(212) 563-3223
Attorney I.D. No. (SC-3241)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MOHAMED BARY,

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Docket No. CV 02 5202

(Trager, J.)

**AFFIDAVIT OF
MICHAEL J. CROWLEY**

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

MICHAEL J. CROWLEY, being duly sworn, deposes and says:

1. I am a member of the firm of Gallagher Gosseen Faller & Crowley, attorneys for defendant, DELTA AIR LINES, INC., ("Delta"), and I am familiar with the facts and circumstances hereinafter set forth. I submit this Affidavit in support of defendants' motion for an Order, pursuant to Fed. R. Civ. P. 56, granting summary judgment and dismissing plaintiff's complaint.

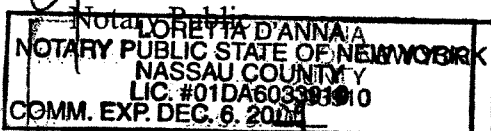
2. Pursuant to Fed. R. Civ. P. 56(e), this Affidavit is submitted based upon personal knowledge of the pleadings and disclosures to date in this matter. The following exhibits are annexed to this Affidavit:

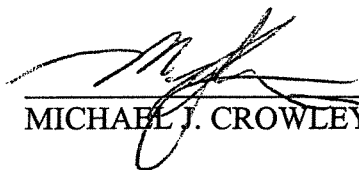
- (A) Plaintiff's Amended Complaint dated July 9, 2003;
- (B) Delta's Answer to Amended Complaint dated August 18, 2008;

- (C) Plaintiff's deposition testimony dated August 5 2004;
- (D) Deposition testimony of Delta employee Vera Hall dated January 24, 2005;
- (E) Deposition testimony of Delta employee Jimmy Wlodarczrk dated January 24, 2005;
- (F) Plaintiff's various checks;
- (G) Plaintiff's various checking account deposit slips; and
- (H) Affidavit of David A. Seiler, Esq. dated September 5, 2008.

3. These exhibits are referenced in Delta's Memorandum of Law submitted herewith. The arguments submitted in support of this motion are contained therein. It is respectfully submitted that the annexed exhibits, together with the Affidavit of David A. Seiler, the moving Memorandum of Law, and defendants' Rule 56.1 Statement, establish that there are no material issues of fact as to the issues presented in this motion. Defendant respectfully requests an Order granting summary judgment and dismissal of plaintiff's Complaint.

Sworn to before me this
5th day of September, 2008.




MICHAEL J. CROWLEY

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

Kristin Cooper, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at Glen Oaks, New York.

On September 5, 2008, deponent served the within **NOTICE OF MOTION AND AFFIDAVIT OF MICHAEL J. CROWLEY** upon:

Sanjay Chaubey, Esq.
Law Office of Sanjay Chaubey
Attorney for Plaintiff
Empire State Building
350 Fifth Avenue, Ste. 5013
New York, NY 10118

being the addresses designated by said attorneys/parties for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper in a post office official depository under the exclusive care and custody of the United States Postal Service within the State of New York.


KRISTIN COOPER

Sworn to before me this
5TH day of September, 2008.


Notary Public

LORETTA D'ANNA
NOTARY PUBLIC STATE OF NEW YORK
NASSAU COUNTY
LIC. #01DA6033910
COMM. EXP. DEC. 6, 2011

